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Hon. Thomas O. Rice

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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF WASHINGTON AT RICHLAND

11 JOHN DOE 1; JOHN DOE 2; JANE  
12 DOE 1; JANE DOE 2; JANE DOE 3; and  
all persons similarly situated,

13 Plaintiffs,

14 v.

15 WASHINGTON STATE  
16 DEPARTMENT OF CORRECTIONS;  
17 CHERYL STRANGE, Secretary of The  
18 Department of Corrections, in her official  
capacity,

19 Defendants,

and

20 BONNEVILLE INTERNATIONAL,  
21 INC.,

Interested Party.

No. 4:21-cv-05059-TOR

**REPLY IN SUPPORT OF  
PROPOSAL RE: NOTICE TO  
CLASS MEMBERS**

1 Plaintiffs, by and through their counsel of record, offer the following brief reply  
2 to address the Response filed by Defendants to Plaintiffs' Proposal Re: Notice to Class  
3 Members.

4 There is no dispute between the parties to this litigation that notice to class  
5 members is not required in this injunctive relief action. Should this Court in its  
6 discretion order that notice be given, there is also no dispute among the parties as to  
7 what form class notice should take and that Defendants should bear the cost of any  
8 notice postings/publication at Department of Corrections ("DOC") facilities.

9 Defendants only suggest that, should this Court decide that notice is  
10 appropriate, it must be done by means other than posting notice in prison facilities.  
11 Defendants explain that notice beyond postings in prison facilities is necessary  
12 because DOC does not have all identifying information related to formerly  
13 incarcerated people who may be identified as transgender in its records.<sup>1</sup> Plaintiffs  
14 agree and have proposed that notice by publication would be appropriate for this  
15 subclass should notice be ordered. There is apparently no dispute that Plaintiffs'  
16 proposed notice plan is adequate.

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19 <sup>1</sup> Defendants raise the issue of whether class members have voluntarily or  
20 involuntarily disclosed their information. As Defendants well know, the degree to  
21 which any such disclosures were voluntary under the circumstances, and whether the  
22 disclosures (voluntary or not) are relevant, remains in dispute. These issues are  
23 irrelevant to class notice and the adequacy of Plaintiffs' proposed notice plan.

Dated this 15th day of June 2021.

<p>MacDonald Hoague &amp; Bayless</p> <p>By: <u>s/ Joe Shaeffer</u>  Joe Shaeffer, WSBA #33273  <a href="mailto:joe@mhb.com">joe@mhb.com</a>  Attorneys for Plaintiffs  On behalf of The American Civil Liberties Union of Washington Foundation  705 Second Avenue, Suite 1500  Seattle, WA 98104  Tel: 206.622.1604  Fax: 206.343.3961</p>	<p>Munger, Tolles &amp; Olson LLP</p> <p>By: <u>s/ Katherine M. Forster</u>  Katherine M. Forster, CA Bar #217609  <i>Pro Hac Vice</i>  <a href="mailto:Katherine.Forster@mto.com">Katherine.Forster@mto.com</a>  Attorneys for Plaintiffs  350 South Grand Avenue, 50<sup>th</sup> Floor  Los Angeles, CA 90071  Tel: 213.683.9538  Fax: 213.593.2838</p>
<p>American Civil Liberties Union of Washington Foundation</p> <p>By: <u>s/ Nancy Talner</u>  Nancy Talner, WSBA #11196  <a href="mailto:TALNER@aclu-wa.org">TALNER@aclu-wa.org</a>  By: <u>s/ Lisa Nowlin</u>  Lisa Nowlin, WSBA #51512  <a href="mailto:lnowlin@aclu-wa.org">lnowlin@aclu-wa.org</a>  By: <u>s/ Antoinette M. Davis</u>  Antoinette M. Davis, WSBA #29821  <a href="mailto:tdavis@aclu-wa.org">tdavis@aclu-wa.org</a>  Attorneys for Plaintiffs  P.O. Box 2728  Seattle, WA 98111  Tel: 206.624.2184</p>	<p>Disability Rights Washington</p> <p>By: <u>s/ Ethan D. Frenchman</u>  Ethan D. Frenchman, WSBA #54255  <a href="mailto:ethanf@dr-wa.org">ethanf@dr-wa.org</a>  By: <u>s/ Danny Waxwing</u>  Danny Waxwing, WSBA #54225  <a href="mailto:dannyw@dr-wa.org">dannyw@dr-wa.org</a>  By: <u>s/ Heather McKimmie</u>  Heather McKimmie, WSBA #36730  <a href="mailto:heatherm@dr-wa.org">heatherm@dr-wa.org</a>  By: <u>s/ David Carlson</u>  David Carlson, WSBA #35767  <a href="mailto:davidc@dr-wa.org">davidc@dr-wa.org</a>  Attorneys for Plaintiffs  315 5<sup>th</sup> Avenue S, Suite 850  Seattle, WA 98104  Tel: 206.324.1521</p>

1                                    DECLARATION/CERTIFICATE OF SERVICE

2            I certify that on the date noted below I electronically filed the above-entitled  
3 document with the Clerk of the Court using the CM/ECF system which will send  
4 notification of such filing to the following persons:

5    **Attorneys for Defendants DOC and Stephen Sinclair:**

6    **Washington State Attorney General's Office**

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9    **Attorney for Interested Party:**

10   **Bonneville International, Inc.:**

11   Jason Englund, [jenglund@bonneville.com](mailto:jenglund@bonneville.com)

12  
13            DATED this 15th day of June, 2021, at Seattle, Washington.

14  
15  
16                                    s/ Marry Marze  
17                                    Marry Marze, Legal Assistant